


**2003 BOARD OF SUPERVISORS CORRESPONDENCE
DOCUMENTS FOR COUNTY COUNSEL WEBSITE**

| DATE | SUBJECT | AUTHOR | FORTNER/ MAIN | WEBSITE YES/NO |
|----------|---|--------------------|------------------|---|
| 09/17/03 | SVREP, et al v. Shelley, Case No. 03-56498 Letter Brief Filed by the County of Los Angeles in Ninth Circuit | Judy Whitehurst | RGF: 09/17/03 |  |



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION

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September 17, 2003

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TO: SUPERVISOR YVONNE BRATHWAITE BURKE, Chair
SUPERVISOR GLORIA MOLINA
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN
County Counsel

RE: **SVREP, et al v. Shelley, Case No. 03-56498; Letter Brief Filed
by the County of Los Angeles in Ninth Circuit**

Please find enclosed a copy of the letter filed today requesting that the Ninth Circuit Court of Appeals grant the County's request to file an amicus brief in an En Banc Rehearing of the above case.

We will keep you advised as the case progresses. If you or your staff have any questions, please contact Senior Deputy County Counsel Judy W. Whitehurst at 974-8948.

LWP:JWW:ds

Enclosures

c: David E. Janssen,
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer
Board of Supervisors

Conny McCormack,
Registrar-Recorder/County Clerk



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VIA Molly_dwyer@ca9.uscourts.gov & U.S. MAIL

Ms. Cathy Catterson
Clerk of the Court
United States Court of Appeal for the Ninth Circuit
P.O. Box 193939
San Francisco, California 941 19-3939

Attention: THOMAS, En Banc Coordinator

**Re: SVREP, et al. v. Shelley, Case No. 03-56498
(D.C. No. CV-03-05715-SVW)**

**Motion to File Amicus Brief; Declaration of Conny B.
McCormack**

Dear Ms. Catterson:

Pursuant to the Order of the En Banc Coordinator filed September 16, 2003, in the above-entitled matter (copy attached), the County of Los Angeles hereby submits the declaration of the Los Angeles County Registrar-Recorder/County Clerk ("Registrar"), Ms. Conny B. McCormack, as a friend of the Court, on the question whether or not this case should be reheard en banc.


In view of the unprecedented urgency of this matter as reflected in the Order of the En Banc Coordinator, the County of Los Angeles respectfully requests that this letter be deemed a motion for leave to file an amicus-curiae pursuant to Federal Rules of Appellate Procedure, Rule 29.

Los Angeles County Registrar is the elections official for the largest voting jurisdiction in the State of California with approximately 4 million registered voters. Her declaration is offered to assist the En Banc Court in making a determination as to whether rehearing should be granted.

The declaration provides insight into the complexities of administering the recall election in conjunction with the March 2, 2004, primary election, as would be required if the panel's decision is not reviewed.

An amicus brief is desirable in this matter as neither the District Court nor the Court of Appeal has had the opportunity to understand the impact on the Registrar's ability to administer an election in March of 2004.

Respectfully submitted,



LLOYD W. PELLMAN
County Counsel

Attachments

c: Attached Service List

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 16 2003

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SOUTHWEST VOTER REGISTRATION
EDUCATION PROJECT; SOUTHERN
CHRISTIAN LEADERSHIP
CONFERENCE OF GREATER LOS
ANGELES; NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE; CALIFORNIA
STATE CONFERENCE OF BRANCHES,

Plaintiffs - Appellants,

v.

KEVIN SHELLEY, in his official capacity
as **California** Secretary of State,

Defendant - Appellee,

TED COSTA,

Intervenor-**Appellee**.

No .03-56498

D.C. No. CV-03-05715-SVW

ORDER

Before: THOMAS, En Banc Coordinator.

The parties, including the intervenor, shall file simultaneous briefs, not to exceed 15 pages or 7,000 **words**, setting forth their views on whether **or** not this **case** should be reheard en banc. The briefs shall be filed with the Clerk no later than Wednesday, September 17, at 2:00 p.m., **P.D.T.** The briefs may be filed in

letter format and shall be sent to the ~~Court~~ electronically.

Issuance of the mandate will be stayed pending further order of this **Court.**

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1. The matters stated herein are true and of my own personal knowledge, except for any matter stated under information and belief, which I believe to be true. If called as a witness, I would be competent to testify to the facts set forth in this declaration.
2. I am the Registrar-Recorder/County Clerk of the County of Los Angeles. In such capacity, I am the elections official for the County of Los Angeles. Prior to my appointment in 1995 as Registrar of Los Angeles County, I served for seven (7) years as the Registrar of Voters for San Diego County, California, and as Elections Administrator for six (6) years for Dallas, Texas.
3. The County of Los Angeles is the largest centralized voting jurisdiction in the United States, serving more than 4 million registered voters. I am responsible, among other matters, for the conduct of all federal, state and county elections conducted within Los Angeles County, including the gubernatorial recall election scheduled for October 7, 2003.
4. I have every confidence that the gubernatorial recall election scheduled for October 7, 2003, can and will be administered fairly and effectively in the County of Los Angeles using the punch card voting system.
5. The punch card voting system has been in use in Los Angeles County for 35 years, with over 100 million ballots cast in Los Angeles County at thousands of elections since 1968. The system remains certified by the Secretary of State for use by California counties until March **1, 2004**. For the March 2, 2004 Primary Election, the County of Los Angeles will transition to a new optical scan voting system called InkaVote which is similar in many ways to the punch card voting system. InkaVote uses a single small ballot card that, like the punch card, is printed with only numbers on the ballot card. The ballot card is inserted into a voting device that contains printed pages listing the candidates' names and a designated number for each candidate. Voters insert a pen through the hole in the InkaVote device to make an ink mark onto the ballot card next to the number associated with the candidate of choice, rather than using a punching stylus to punch a hole through the ballot card as is done with the punch card system.

1 6. Like the punch card voting system, the InkaVote system which the County of Los
2 Angeles will be using in the March 2,2004 primary election has a limited ballot capacity of 12 (twelve)
3 pages to list candidates and ballot measures. The recall election with 135 candidates takes up eight
4 pages. If the recall election were consolidated with the primary election the number of pages required to
5 print the contests scheduled for the primary election for President, Congress, State Senate, State
6 Assembly, the Board of Supervisors, Judges, etc., plus various ballot measures, would exceed the 12-
7 page capacity of the InkaVote system.

8 7. Holding the regularly scheduled primary election in March 2004, in conjunction with the
9 recall election, would require Los Angeles County to use two different voting systems in the same
10 election, InkaVote System coupled with some other type of paper ballot system. Using two different
11 systems at the voting precincts has never been done before in Los Angeles County. One hundred
12 percent of the voters in Los Angeles County will be confronted with the challenge of learning how to
13 use the new voting system, InkaVote, in the primary election. To require voters to master the use of two
14 unfamiliar voting systems at the same election invites confusion and ballot errors.

15 8. Currently, Los Angeles County does not have a system in place that could handle the
16 capacity required for the March primary to be combined with the recall election. Los Angeles County
17 would have to acquire additional equipment to accommodate the candidates/contests in both elections.

18 9. Another complexity of conducting the recall election at the same time as the primary
19 election is that for California's closed primary election voters must declare their political party
20 affiliation prior to voting. This declaration is made in order to receive the correct ballot for the political
21 party with which the voter is registered. We have seven different political parties, with seven different
22 ballots, i.e. democrat, republican, libertarian, et. cetera. However, the recall election is a general
23 election with numerous partisan candidates and every voter may vote across party lines for his/her
24 choice for governor. Attempting to combine these two totally different types of elections has never
25 been done before and would, in my opinion, result in significant voter confusion and enhanced potential
26 for error.

10. Should the recall election proceed on October 7, 2003, the ballot will be relatively simple. Voters will have a maximum of four selections to make, and, in Los Angeles County, voters would be using the punch card system which has been used for voting here for the last 35 years.

11. For the recall election scheduled for October 7, 2003, Los Angeles County has mailed out 332,900 absentee ballots and already received back 41,796 absentee ballots cast by voters. Absentee voters have called my office to express concern and confusion as to whether they will need to vote again should the recall election be postponed until March.

12. In terms of costs of the election, Los Angeles County has already incurred more than 50% of the costs of the recall election or approximately \$7,000,000 as 3.85 million sample ballots have been printed and mailed, all official ballots and election supplies have been purchased, hundreds of thousands of absentee ballots have been printed and mailed and hundreds of additional temporary employees were hired and have been working for weeks to prepare the myriad tasks associated with conducting a statewide election.

13. On Tuesday, September 16, 2003, I made a televised public presentation to the Los Angeles County Board of Supervisors on the problems associated with delaying the election to March 2004. Attached hereto is a true and correct copy of the transcription of my public presentation to the Board.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of September, 2003, at Norwalk, California.


CONNY B. MCCORMACK

COUNTY OF LOS ANGELES

THE BOARD of CALIFORNIA SUPERVISORS

**First
District**



**Gloria
Molina**

**Second
District**



**Yvonne
Brathwaite
Burke**

**Third
District**



**Zev
Yaroslavsky**

**Fourth
District**



**Don
Knabe**

**Fifth
District**



**Michael D.
Antonovich**

**The Preliminary Transcript
of the Meeting of
The Los Angeles County
Board of Supervisors**



**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 LEADERSHIP ROLE, THE KIND OF EFFORT, THE KIND OF DEDICATION
2 THAT YOU HAVE HAD. THESE ARE THE MOST HELPLESS OF CREATURES IN
3 OUR COMMUNITY, AND IT'S ALWAYS SO NICE TO SEE PEOPLE WHO ARE
4 DEDICATED TO TAKING CARE OF ALL OF OUR ANIMALS.

5 CONGRATULATIONS, DOCTOR. THANK YOU SO MUCH. [Applause]

6

7 **SUP. MOLINA:** YOU'VE GOT YOUR WIFE WITH YOU.

8

9 **SPEAKER:** THANK YOU VERY MUCH, SUPERVISOR MOLINA. I'D LIKE TO
10 ACKNOWLEDGE THE EXCELLENT WORK OF THE DEPARTMENT, ESPECIALLY
11 THE DIRECTOR, DR. ZEBALA, AND, OF COURSE, MY WIFE, EVELYN.
12 THANK YOU SO MUCH. [Applause]

13

14 **SUP. KNABE:** SUPERVISOR MOLINA, ARE YOU FINISHED? OKAY. BEFORE
15 WE GO INTO THE REGULAR AGENDA, I'M GOING TO ASK THAT OUR
16 REGISTRAR RECORDER, CONNIE McCORMICK, IF SHE WOULD COME
17 FORWARD TO GIVE US AN UPDATE ON THE IMPACT, THE POTENTIAL
18 IMPACT OF THE JUDGE'S DECISION AS IT RELATES TO ON THE 7
19 ELECTION. IS CONNY STILL HERE?

20

21 **SUP. YAROSLAVSKY:** MR. CHAIRMAN, WHILE WE'RE WAITING FOR CONNY,
22 I'D LIKE TO ASK THAT WE ADJOURN IN MEMORY OF FLORA CHAVEZ, A
23 COMMUNITY ACTIVIST AND DIRECTOR OF THE WEST SIDE BRANCH,
24 COMMUNITY SERVICE ORGANIZATION. FLORA DEDICATED HER LIFE TO
25 HELPING THE POOR, THE HUNGRY, AND THE HOMELESS IN OUR PART OF

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 THE COUNTY. SHE SUCCUMBED TO CANCER. SHE WAS AT THE FOR FRONT
2 OF THE CIVIL RIGHTS MOVEMENT TO ACHIEVE SOCIAL AND ECONOMIC
3 JUSTICE. SHE WILL BE GREATLY MISSED BY THOSE SHE HELPED AND
4 THOSE SHE INSPIRED TO HELP OTHERS. SHE'S SURVIVED BY HER
5 DAUGHTERS, KATHY, KAY LEN, FOUR GRANADA CHILDREN AND TWO GREAT
6 GRANDCHILDREN.

7

8 SUP. KNABE: SO ORDERED. ZEV, SINCE YOU'RE FIRST UP, WHY DON'T
9 YOU PROCEED. I KNOW YOU HAVE SEVERAL QUESTIONS, AS WE ALL DO.

10

11 SUP. YAROSLAVSKY: MR. CHAIRMAN, THANK YOU. I ASK CONNY LAST
12 NIGHT IF SHE WOULD COME DOWN THIS MORNING AND GIVE US A
13 REPORT, BECAUSE I READ A REPORT FROM HER ON THE INTERNET THAT,
14 WHEN ASKED WHETHER -- I THINK THE QUOTE WAS SOMETHING TO THE
15 EFFECT, NOBODY HAS ASKED L.A. COUNTY, THE BIGGEST COUNTY IN
16 CALIFORNIA, WHETHER, IN THE LIGHT OF THE NINTH CIRCUIT COURT
17 OF APPEALS DECISION, POST PONG THE ELECTION UNTIL PERHAPS
18 MARCH, WHETHER WE HAVE THE CAPACITY TO RUN THAT ELECTION IN
19 MARCH, AND YOU WERE QUOTED AS SAYING THE ANSWER IS NO, AND
20 CALLED YOU YESTERDAY TO CONFIRM THAT THAT WAS AN ACCURATE
21 QUOTE, AND IT WAS, SO AFTER I ENDED THE APOPLEXY ATTACK I HAD,
22 I WANTED TO HEAR FROM YOU, WHAT IS THE IMPACT OF THIS
23 DECISION, WHAT ARE YOUR PLANS, WHAT ARE YOUR OPTIONS, AND I
24 GUESS LATER WE'RE GOING TO HAVE A DISCUSSION IN CLOSED
25 SESSION, BUT I REALLY HAVE TO ASK THE QUESTION IN OPEN

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 SESSION, IS THERE ANY ROLE FOR US FROM A LEGAL POINT OF VIEW,
2 BOTH TO PROTECT OURSELVES AND OUR CONSTITUENTS AND OUR VOTERS?
3 SO THOSE ARE -- THEN TAKE IT WHEREVER YOU WANT TO TAKE IT.

4

5 **CONNY McCORMICK:** THANK YOU, SUPERVISOR, AND ALL SUPERVISORS.
6 THOSE QUOTES WERE CORRECT, AND I WOULD LIKE TO GIVE SOME
7 CONTEXT BECAUSE IT'S ALMOST TWO WEEKS TO THE DAY THAT THE
8 SECRETARY OF STATE TWO YEARS AGO DECERTIFIED --

9

10 **SUP. YAROSLAVSKY:** MR. CHAIRMAN, COULD I JUST ASK YOU TO KEEP
11 ORDER IN THE ROOM?

12

13 **CONNY McCORMICK:** PUNCH-CARD SYSTEM WAS DECERTIFIED. THROUGHOUT
14 THIS PROCESS, OVER TWO YEARS, THE COUNTY OF LOS ANGELES HAS
15 NOT BEEN A PARTY, AND NO OTHER COUNTY HAS BEEN A PARTY TO
16 THESE LAWSUITS, WHICH IS A HUGE DISCONNECT BETWEEN THE
17 CAPABILITY OF ADMINISTERING AN ELECTION **AND** THE VENUE THAT WAS
18 CHOSEN FOR THE LAWSUITS, AND SO I THINK IT HAD SOME IMPACT ON
19 WHERE WE ARE TODAY, IS THAT NO ONE HAS BROUGHT THE -- INTO THE
20 LAWSUIT THE COUNTIES, AND IN TERMS **OF** LOS ANGELES COUNTY, AS
21 YOU KNOW, WE HAVE TO, BY THESE FEDERAL COURT RULES THAT WERE
22 RULED IN 2002, CHANGE OUR VOTING SYSTEM BY NEXT MARCH, AND AS
23 YOU ALWAYS **NO**, LAST YEAR, LAST AUGUST, THE BOARD CHOSE THE
24 DIRECTION WE WERE GOING IN, WHICH IS A SIMILAR SYSTEM, IT'S
25 CALLED INK ABOUT, IT'S SIMILAR TO THE PUNCH-CARD SYSTEM, IN

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 THAT IT HAS A BALLOT DEVICE, AND YOU'VE SEEN THIS, AND A PUNCH
2 -- A BALLOT CARD THAT IS PUT INTO THE DEVICE IN A VERY SIMILAR
3 FASHION TO THE PUNCH-CARD, BUT INSTEAD OF A PUNCHING TOOL AND
4 PUTTING A HOLE IN THE CARD, IT HAS AN INKING STYLIST THAT YOU
5 MAKE THE MARKS IN INK ON YOUR CHOICES, AND THIS TYPE OF A
6 SYSTEM IS JUST LIKE OUR PUNCH-CARD SYSTEM FOR 35 YEARS, HAS A
7 LIMITED BALLOT CAPACITY. WE'VE NEVER EXCEEDED THAT BALLOT
8 CAPACITY. IT CAN HOLD HUNDREDS AND HUNDREDS OF CANDIDATES, BUT
9 TO SUPER IMPOSE A RECALL ELECTION WITH 135 CANDIDATES, WHICH
10 IS TAKING UP EIGHT PAGES IN THE CURRENT OCTOBER 7 ELECTION,
11 WITH A 12-PAGE CAPACITY, WE CANNOT RUN A PRIMARY ELECTION FOR
12 THE PRESIDENT, FOR CONGRESS, FOR THE BOARD OF SUPERVISORS, FOR
13 THE STATE ASSEMBLY, ALL THE JUDGES, ALL THE BALLOT MEASURES ON
14 FOUR ADDITIONAL PAGES. I MEAN, WE WOULD JUST RUN OUT OF BALLOT
15 CAPACITY. THEREFORE, WE'D HAVE TO CONFRONT WHAT WE WERE GOING
16 TO DO WITH THE VOTERS TO HAVE THE RECALL ON THE SAME ELECTION.
17 ANOTHER COMPLICATION --

18

19 SUP. YAROSLAVSKY: THEY WILL JUST UNDERSTAND. THE CAPACITY
20 LIMITATION IS NOT, THEN, THE NUMBER OF CANDIDATES, PER SE, BUT
21 IT'S THE NUMBER OF PAGES IN WHICH YOU CAN FIT HOWEVER MANY
22 RACES THERE ARE.

23

24 SPEAKER: THAT'S CORRECT.

25

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 **SUP. YAROSLAVSKY:** AND THAT UPPER LIMIT IS 12 PAGES.

2

3 **SPEAKER:** THAT'S CORRECT.

4

5 **SUP. YAROSLAVSKY:** AND THIS IS TAKING EIGHT PAGES.

6

7 **SPEAKER:** AT LEAST 7.

8

9 **SUP. YAROSLAVSKY:** AND BECAUSE THAT'S THE ONLY THING ON THE
10 ABOUT THE IN OCTOBER, YOU ARE WELL WITHIN THE CAPACITY TO RUN
11 IT UNDER EITHER SYSTEM, BUT IN MARCH, YOU HAVE ALL THE OTHER
12 ELECTIONS WHICH WOULD TAKE YOU OVER THE 12 PAGES. IS THAT
13 CORRECT?

14

15 **SPEAKER:** THAT'S CORRECT, AND THAT'S A MAJOR PROBLEM FOR LOS
16 ANGELES AND POTENTIALLY FOR SACRAMENTO. OTHER COUNTIES THAT
17 HAVE MOVED INTO FULL TOUCH SCREEN DEVICES OR HAVE, LIKE, IN
18 THE CASE OF ORANGE COUNTY IS PLANNING ON USING THIS LARGE
19 SCALE OPTICAL SCAN BALLOT, THIS IS THEIR RECALL BALLOT OF --
20 WOULD HAVE TO FIND A MULTIPLE-PAGE-TYPE CAPACITY WITH ALL THE
21 SOFTWARE AND ALL THE EQUIPMENT. WE DON'T HAVE THAT EQUIPMENT.
22 WE HAVE THIS SYSTEM, AND WE'VE RECONSTITUTED OUR PUNCH-CARD
23 BALLOT TABULATING DEVICES, AND THAT WAS THE REASON, AS YOU
24 KNOW, TO SAVE MONEY, TO HAVE AN INTERIM SYSTEM IN THE NEXT TWO
25 YEARS UNTIL WE CAN GET A HUNDRED MILLION DOLLARS TO BUY A

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**The Preliminary Transcript of the Meeting of
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1 TOUCH SCREEN SYSTEM. THE COST OF THIS SYSTEM FOR THIS INTERIM
2 TIME PERIOD WAS UNDER \$3 MILLION, SO IT WAS A MINIMAL
3 EXPENDITURE IN THE SCHEME OF THINGS. THE OTHER MAJOR
4 COMPLEXITY OF TRYING TO OVERLAY A RECALL ELECTION ON TOP OF A
5 PRIMARY ELECTION IS IN A PRIMARY ELECTION, THE VOTERS HAVE TO
6 COME IN AND DECLARE THEIR POLITICAL PARTY, AND YOU KNOW IN
7 CALIFORNIA, WE HAVE SEVEN POLITICAL PARTIES, AND SO THERE ARE
8 SEVEN DIFFERENT KINDS OF BALLOTS. AND THEY'RE COLOR-CODED,
9 DEMOCRAT, REPUBLICAN, LIBERTARIAN, ET CETERA, AND THE VOTER
10 DECLARES THEIR -- AND THE POLLWORKER KNOWS WHAT THEIR PARTY
11 IS. THEY WOULD THEN ISSUE THAT PARTY, WHICH IS ALWAYS A
12 CONFUSION TO THE VOTER, IT'S ALL THE THE MOST DIFFICULT
13 ELECTION. THIS RECALL ELECTION IS A GENERAL ELECTION. MOST
14 PEOPLE DON'T KNOW THE DIFFERENCE. THEY ARE POLITICAL
15 CANDIDATES RUNNING IN A PARTY BALLOT. THEN YOU'D HAVE SOME
16 SORT OF ANOTHER BALLOT FOR THEM, WHETHER OR NOT IT COULD BE
17 ANOTHER ONE OF THESE, AND WE COULD POSSIBLY BUY MORE DEVICES
18 AND POSSIBLY FIND A WAY TO GET OUR SOFTWARE RECERTIFIED AND
19 RECONFIGURED TO COUNT TWO BALLOTS, OR WHETHER OR NOT WE'D HAVE
20 TO GO TO A SEPARATE TYPE OF SYSTEM FOR THE RECALL. I'M JUST
21 THINKING IN TERMS OF THE VOTER CONFUSION OF COMING IN. THEY'VE
22 NEVER SEEN THIS SYSTEM ANYWAY, SO ALREADY THERE'S A CHANGE,
23 AND THEN LAYING ON THE RECALL ELECTION ON TOP OF THAT
24 COMPLICATED PRIMARY ELECTION IS GOING TO CREATE AT LEAST, I
25 WOULD THINK IN ALL VOTERS' MIND, SOME QUESTIONS AND SOME

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**The Preliminary Transcript of the Meeting of
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1 CONFUSION, AND COMPARED TO THE PUNCH-CARD, WHICH WE'VE BEEN
2 USING FOR 35 YEARS AND A HUNDRED MILLION BALLOTS HAVE BEEN
3 COST ON IT WITHOUT INCIDENT HERE, AND SO THIS IS WHAT WE'RE
4 CONFRONTING.

5

6 **SUP. MOLINA:** BUT MISS McCORMICK, IT BEGS THE QUESTION, WHAT
7 WOULD HAVE HAPPENED HAD THIS INITIATIVE -- HAD THIS RECALL
8 QUALIFIED FOR THE MARCH BALLOT?

9

10 **SPEAKER:** WE WOULD HAVE BEEN IN THE SAME SITUATION, SO WE WOULD
11 HAVE HAD --

12

13 **SUP. MOLINA:** BUT IT WOULD HAVE BEEN SOMETHING THAT WE WOULD
14 HAVE TO REORGANIZE IN ORDER TO CARRY OUT.

15

16 **SPEAKER:** THAT'S CORRECT, AND WE WILL HAVE TO AGAIN IF IT
17 CONTINUES THIS MARCH, THAT'S CORRECT.

18

19 **SUP. KNABE:** YOU'RE TALKING ABOUT A SEPARATE DEVICE. WOULD THE
20 VOTER HAVE TO MOVE, THEN, POTENTIALLY TO ANOTHER PARTITIONED
21 AREA IF YOU HAD TO SEPARATE THE RECALL FROM THE NORMAL
22 PRIMARY?

23

24 **SPEAKER:** I WOULD THINK NOT. I THINK WE COULD GO IN THE SAME
25 BOOTH, AND WHETHER YOU HAD TWO OF THESE OR WHETHER YOU ISSUED

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**The Preliminary Transcript of the Meeting of
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1 SOMETHING LIKE THIS AND ONE OF THESE, THEY'D GO INTO ONE
2 BOOTH. I DON'T THINK THAT IS GOING TO BE A PROBLEM, BUT
3 CLEARLY, KEEPING ALL OF THIS SEPARATE WILL BE A CHALLENGE.

4

5 **SUP. YAROSLAVSKY:** SO THE ANSWER TO THE QUESTION, CAN YOU RUN
6 AN ELECTION, A RECALL ELECTION AND THE OTHER ELECTIONS IN
7 MARCH, THE ANSWER IS "YES," YOU JUST CAN'T DO IT WITH THE ONE
8 SYSTEM THAT YOU HAD IN MIND.

9

10 **SPEAKER:** WITH THE SYSTEM THAT WE'RE PLANNING TO USE IN MARCH,
11 IT IS A BALLOT CAPACITY ISSUE. CLEARLY, IF WE HAVE TO RUN IT,
12 WHETHER IT'S ON A PAPER BALLOT OR ANYTHING ELSE FOR THE
13 ELECTION, WE WOULD HAVE TO DO THAT, AND WE WOULD DO IT, BUT
14 THE -- RIGHT NOW WE DON'T HAVE A SYSTEM THAT WOULD DO THAT, WE
15 DON'T OWN ANY OF THE EQUIPMENT, WE DON'T HAVE ANY CAPACITY TO
16 DO IT AT THIS VERY MOMENT.

17

18 **SUP. YAROSLAVSKY:** WHAT WOULD YOUR RECOMMENDATION BE, MAYBE
19 THIS IS TOO PREMATURE TO ASK, BUT WHAT WOULD BE YOUR
20 RECOMMENDATION, IF YOU HAD TO HAVE AN ELECTION IN MARCH,
21 RECALL, OTHER THINGS, CONSOLIDATED, HOW WOULD YOU ADDRESS IT?
22 WOULD YOU DO IT WITH THAT ORANGE COUNTY TYPE OF THING?

23

24 **SPEAKER:** ALL OF THE SOFTWARE AND ALL OF OUR TABULATION
25 SYSTEMS, AND I WOULDN'T WANT TO SAY RIGHT NOW, I THINK YOU'D

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 WANT A FULL RANGE OF OPTIONS BROUGHT TO YOU, AND I'D LIKE TO
2 YOU TO DO THAT.

3

4 **SUP. YAROSLAVSKY:** WHAT IS THE RANGE OF COST THAT YOU'RE
5 LOOKING AT?

6

7 **SPEAKER:** THE COST, AT THIS POINT, WE HAVEN'T HAD AN
8 OPPORTUNITY TO EXPLORE WHAT THOSE COSTS WOULD BE IN THE 24
9 HOURS THAT WE'VE BEEN AWARE OF THIS SITUATION, BUT AGAIN, I
10 WOULD LIKE TO BRING YOU ALL OF THAT **IN** AN ORGANIZED FASHION SO
11 YOU'D KNOW WHAT WE'RE LOOKING AT AND HOW --

12

13 **SUP. KNABE:** AS IT RELATES TO A MORE IMMEDIATE QUESTION, WHAT
14 SHOULD THE VOTERS DO OUT THERE RIGHT NOW THAT HAVE THIS
15 ABSENTEE BALLOT REQUEST IN THEIR HANDS?

16

17 **SPEAKER:** I'M GLAD YOU ASKED THAT QUESTION, BECAUSE THE
18 SECRETARY **OF** STATE HAS STATED THAT ALL ABSENTEE VOTERS IN THE
19 STATE SHOULD CONTINUE TO MAIL IN THEIR ABSENTEE BALLOTS,
20 SHOULD CONTINUE THE PROCESS, BECAUSE WE ARE UNDER A STAY **OF**
21 THE COURT DECISION FOR THE NEXT NOW SIX DAYS, AND I THINK IT
22 IS CONFUSING TO THE VOTER WHO IS OUT THERE. WE'VE ALREADY
23 RECEIVED 40,000 ABSENTEE BALLOTS BACK THAT HAVE BEEN VOTED
24 ALREADY, THEY ARE UNDER LOCK AND KEY, WE NEVER COUNT THEM
25 UNTIL ELECTION DAY, SO I WANTED TO ASSURE EVERYONE THAT THEY

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 ARE SECURE AND THERE'S NOT A PROBLEM, BUT WE'VE MAILED OUT
2 291,000 ALREADY, AND WE HAVE 60,000 MORE THAT ARE READY TO GET
3 MAILED OUT, SO WE'VE BEEN TOLD WHERE TO CONTINUE IN TERMS OF
4 THE ELECTION COSTS, WE HAVE INCURRED MORE THAN 50% OF THE
5 COSTS OF THE ELECTION ALREADY WITH THE SAMPLE BALLOTS IN THE
6 MAIL.

7

8 **SUP. KNABE:** SO IF IT WAS DELAYED, THEN, IN FACT, THAT WOULD BE
9 A NONREIMBURSABLE EXPENSE? I MEAN, WHAT COSTS HAVE YOU -- I
10 MEAN, I KNOW IT'S ONLY BEEN 24 HOURS, BUT WHAT COSTS HAVE YOU
11 INCURRED, SHOULD THE ELECTION BE DELAYED THAT WE WOULD BE EVEN
12 MORE -- MONEY SPENT THAT WE'LL NEVER GET BACK?

13

14 **SPEAKER:** WE'RE ESTIMATING AT THIS POINT AT LEAST \$7 MILLION
15 THAT'S BEEN SPENT, AND THAT'S MONEY FOR THE SAMPLE BALLOTS,
16 MAILING OF THE SAMPLE BALLOTS, ALL OF THE ELECTION SUPPLIES,
17 ALL OF THE TEMPORARY STAFFING TO PUT TOGETHER THE ELECTION,
18 ASSEMBLE THE EQUIPMENT, ALL OF THE ABSENTEE BALLOTS THAT HAVE
19 GONE OUT AND ARE GOING OUT, ALL THE TEMPORARY STAFF THAT'S
20 BEEN WORKING SEVEN DAYS A WEEK DOUBLE SHIFTS. AGAIN, WE HAVE
21 TO CONTINUE THAT OVER THE NEXT SIX DAYS, BY COURT ORDER. SO
22 USUALLY THE COST OF THE ELECTION, ONLY 10 TO 15% IS INCURRED
23 ON ELECTION DAY. MOST PEOPLE DON'T REALIZE THAT. MOST OF THE
24 COSTS OF THE ELECTION IS IN THE PREPARATION AND UP-FRONT COSTS
25 OF THE ELECTION.

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1

2 **SUP. ANTONOVICH:** WHAT PERCENTAGE ARE GOING TO BE ABSENTEE
3 BALLOTS?

4

5 **SPEAKER:** STATE-WIDE, AS FAR AS 30 TO 35%.

6

7 **SUP. ANTONOVICH:** AND REQUEST FOR ACTEDDEE ARE HIGHER THAN AT
8 PRESIDENTIAL?

9

10 **SPEAKER:** THEY'RE HIGHER THAN PRESIDENTIAL. WE'VE HAD OVER
11 350,000 REQUESTS.

12

13 **SUP. ANTONOVICH:** AND A PERSON WHO VOTES ABSENTEE VOTES PUNCH-
14 CARD.

15

16 **SPEAKER:** THEY'VE ALREADY VOTED ON THE PUNCH-CARD, CORRECT.

17

18 **SUP. ANTONOVICH:** SO THEY VOTE ON A PUNCH-CARD, THAT'S A
19 TRADITIONAL WAY OF ABSENTEE BALLOTS IN THE STATE. POPULARITY
20 OF ABSENTEE BALLOTS HAVE INCREASED, NOT DECREASED, AND WHAT
21 THE COURT IS SAYING IS THAT THE PEOPLE ARE TOO STUPID TO VOTE
22 THE WAY THEY VOTE ABSENTEE IN A POLLING BOOTH BECAUSE THEY ARE
23 UNABLE TO READ OR FOLLOW DIRECTIONS OR PUNCH A HOLE, WHICH IS
24 JUST LUDICROUS, AND, YOU KNOW, WE'VE HAD PUNCH-CARD ELECTIONS
25 THROUGHOUT THE HISTORY OF THIS STATE, SINCE I WAS BORN, IN LOS

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 ANGELES COUNTY, AND I SEE IT AS AN ATTEMPT TO STOP THE
2 DEMOCRATIC PROCESS IN CARRYING OUT THE ELECTION.

3

4 **SUP. YAROSLAVSKY:** I HATE TO CORRECT YOU, MR. ANTONOVICH,
5 YOU'RE NOT THAT YOUNG. YOU'RE OLD ENOUGH TO REMEMBER THE
6 PREVIOUS SYSTEM, I GUARANTEE YOU, BECAUSE I CAN REMEMBER IT.

7

8 **SUP. ANTONOVICH:** WELL, YOU'RE NOT THAT YOUNG EITHER, THEN.

9

10 **SUP. YAROSLAVSKY:** THAT'S RIGHT. [Laughter]

11

12 **SUP. YAROSLAVSKY:** THAT'S MY POINT.

13

14 **SUP. KNABE:** RECALL ELECTION TO TELL ABOUT PEOPLE'S BIRTHDAYS.

15

16 **SUP. YAROSLAVSKY:** CONNY, IF YOU HAVE TO GO TO A SYSTEM IN
17 WHICH YOU HAVE TWO DIFFERENT SYSTEMS TO VOTE, IS IT YOUR
18 FEELING THAT THAT WOULD CAUSE CONFUSION AMONG OUR -- POTENTIAL
19 CONFUSION AMONG OUR VOTERS?

20

21 **SPEAKER:** I THINK IT'S LOGICAL TO ASSUME THAT IT WOULD BECAUSE,
22 AGAIN, WE HAVE USED THE SAME SYSTEM FOR 35 YEARS IN THIS
23 COUNTY, PEOPLE ARE FAMILIAR WITH IT. THERE'S USUALLY ONLY 2 OR
24 3% NEW VOTERS, AND PEOPLE ARE FAMILIAR WITH IT, AND NOW WE'RE
25 LOOKING AT 100% OF THE VOTERS WHO ARE UNFAMILIAR WITH THE

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 SYSTEM, AND IT'S NOT LARGE ENOUGH TO HOLD ALL THE RACES, SO
2 WE'RE GOING TO HAVE TO LOOK AT WHAT OTHER SUPPLEMENTAL SYSTEM
3 TO BRING IN AND GIVE YOU A RANGE OF OPTIONS. I THINK IT'S NOT
4 -- I THINK IT WOULD JUST BE LOGICAL TO ASSUME THAT THIS IS
5 GOING TO BE CONFUSING, AND NO MATTER HOW MUCH VOTER OUTREACH,
6 AND, OF COURSE, WE WILL DO AS MUCH AS WE CAN, WE'RE LOOKING AT
7 MILLIONS OF VOTERS CONFRONTING SOMETHING NEW FOR THE FIRST
8 TIME.

9
10 **SUP. YAROSLAVSKY:** IS IT CONCEIVABLE THAT VOTERS IN LOS ANGELES
11 COUNTY CONFRONTED IN MARCH WITH TWO DIFFERENT SYSTEMS IN THE
12 SAME POLLING BOOTH OR IN SEPARATE POLLING BOOTHS, THAT THERE
13 MIGHT BE SOME VOTES THAT WOULDN'T BE COUNTED AS A RESULT OR
14 THAT THERE WOULD BE SOME KIND OF A -- YOU WANT TO CALL IT AN
15 ERROR RATE OR SLIPPAGE RATE AS A RESULT OF THE CONFUSION?

16
17 **SPEAKER:** I THINK THERE'S BEEN A LOT OF TALK ABOUT WHAT AN
18 ERROR RATE IS IN AN ELECTION, AND IT'S REALLY NOT AN ERROR
19 RATE. THE SUPPOSITION IS THAT IF PEOPLE SKIP A RACE AND DON'T
20 VOTE FOR THAT, THAT THAT'S AN ERROR, THAT'S PART OF THE COURT
21 PLEADINGS, AND I WOULD CONTEND THAT A LOT OF VOTERS WANTED TO
22 SKIP THAT RACE, AND YOU HAVE NO WAY OF KNOWING BECAUSE OF
23 SECRET BALLOT, YOU CAN'T GO AND ASK THAT PERSON, "WHY DID YOU
24 SKIP THAT RACE?" YOU'LL NEVER KNOW THAT, WHETHER IT WAS

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 INTENTIONAL OR BECAUSE THE WAY THE BALLOT WAS LAID OUT OR HAD
2 A PROBLEM WITH PUNCHING DOWN THROUGH THE BALLOT CARD.

3

4 **SUP. YAROSLAVSKY:** ARE YOU SAYING THAT THE COURT OF APPEALS --
5 OR THE PLEADINGS BEFORE BOTH THE DISTRICT COURT AND THE COURT
6 OF APPEALS BUY THE PLAINTIFFS ASSUME THAT ANY TIME THERE WAS A
7 RACE THAT WAS SKIPPED, THAT THERE WAS NO PUNCH OUT, THAT IS
8 CONSTRUED AS AN ERROR?

9

10 **SPEAKER:** THAT'S CORRECT. IN THE PAPERS, THAT'S CONSIDERED AN
11 ERROR.

12

13 **SUP. YAROSLAVSKY:** SO WHAT I READ IN THE PAPERS TODAY ABOUT THE
14 DECISION THAT 40,000 PEOPLE WILL BE DISENFRANCHISED AS A
15 RESULT OF THESE SYSTEMS -- OR THIS SYSTEM, THAT THAT INCLUDES
16 PEOPLE WHO DECIDED THEY DIDN'T WANT TO VOTE FOR THEIR
17 CONGRESS, CONGRESSIONAL ELECTION --

18

19 **SPEAKER:** THAT'S CORRECT. THEY CONSIDER THE ERROR RATE A
20 RESIDUAL VOTE RATE OF THOSE PEOPLE WHO VOTE FOR MORE THAN ONE
21 CANDIDATE IN A RACE, SO THAT'S AN OVER VOTE, WHICH IS OFTEN AN
22 INTENTIONAL EXPRESSION AS WELL, OR UNDERVOTE FOR SOMEONE WHO
23 JUST DIDN'T VOTE. THEY EXTRAPOLATE THAT ON THE TOP OF THE
24 BALLOT, THEY COMBINE THE TWO. DIFFERENT VOTING SYSTEMS HAVE
25 THE TOUCH SCREEN. YOU'RE NOT ALLOWED TO OVERVOTE. IT WILL NOT

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 ALLOW YOU TO VOTE FOR TWO CANDIDATES, SO IT PREVENTS THE
2 OVERVOTING, WHICH MAY OR MAY NOT BE INTENTIONAL BEHAVIOR, BUT
3 IT DOESN'T PREVENT THE OVER-VOTING. IT DOES REMIND YOU AT THE
4 END OF THE VOTING THAT YOU HAVE SKIPPED THAT RACE SO THAT IF
5 WAS UNINVENTIONAL, YOU CAN GO BACK AND MAKE THAT CHANGE,
6 RATHER THAN THIS SYSTEM DOESN'T REMIND YOU TO DO THAT. THE
7 DIFFERENCES OF THAT RESIDUAL VOTE RACE BETWEEN SCREEN AND
8 PUNCH-CARD IS LESS THAN 1%.

9

10 **SUP. YAROSLAVSKY:** IS IT CONCEIVABLE, THEN, GOING BACK TO MY
11 QUESTION, BECAUSE IF WE'RE FORCED TO GO INTO A MARCH
12 SITUATION, IS IT CONCEIVABLE THAT WE WOULD HAVE -- THAT THE
13 CONFUSION THAT YOU DESCRIBED EARLIER COULD LEAD TO PEOPLE
14 INADVERTENTLY VOTING OR NOT VOTING OR OVER-VOTING OR NOT
15 VOTING OR MISSING SOMETHING, BEING SOME SLIPPAGE --

16

17 **SPEAKER:** I THINK IT'S SPECULATION, BUT I THINK IT'S A
18 SPECULATION THAT IS LOGICAL.

19

20 **SUP. YAROSLAVSKY:** WELL, WHAT DOES CONFUSION USUALLY LEAD TO?
21 DOES IT LEAD TO PERFECTION OR IMPERFECTION?

22

23 **SPEAKER:** I THINK IMPERFECTION. RATHER THAN PROJECT ERRORS, I
24 DON'T THINK WE CAN NECESSARILY PROJECT ANY PERCENTAGES, BUT I
25 DO THINK THAT WE CAN SAY THAT PEOPLE WHO ARE CONFRONTED WITH

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 SOMETHING THEY 'VE NEVER SEEN BEFORE ARE GOING TO HAVE A HARDER
2 TIME WITH IT, AND I THINK IT'S JUST LOGICAL TO ASSUME THAT
3 THERE COULD BE PEOPLE WHO EITHER SKIP ONE OF THE ELECTIONS OR
4 THE OTHER UNINTENTIONALLY OR ARE CONFUSED WITH THE PROCESS.

5

6 **SUP. YAROSLAVSKY:** SO THAT THE ART THAT WAS MADE THAT THE
7 PEOPLE IN THE SIX COUNTIES -- LET'S JUST STICK TO *OUR* COUNTY
8 FOR RIGHT NOW, WOULD NOT BE EQUALLY TREATED WITH THE OTHER
9 COUNTIES THAT HAVE THE MORE MODERN EQUIPMENT, THAT COULD STILL
10 BE THE CASE IN MARCH, EVEN UNDER A NEW SET OF RULES, BECAUSE
11 WE WILL HAVE THIS SCREWY MITIGATION OF THE COURT'S DECISION TO
12 DEAL WITH.

13

14 **SPEAKER:** I THINK YOU COULD TAKE THAT TO THE EXTREME AND SAY
15 EVERYONE IN THE UNITED STATES VOTED ON THE SAME SYSTEM. EVERY
16 SYSTEM IS A LITTLE DIFFERENT AND HAS THE SUPPOSED ERROR OR
17 RESIDUAL RATES OF PEOPLE SKIPPING RACES OR OVERVOTING A RACE
18 DIFFERENT. EVERY ONE OF THE SYSTEMS IS DIFFERENT, AND THERE
19 ARE **MANY** SYSTEMS THAT ARE CERTIFIED FOR USE IN THIS COUNTRY
20 AND IN CALIFORNIA, AND THE COUNTIES IN CALIFORNIA USE
21 DIFFERENT SYSTEMS, SO EVERY ELECTION, DEPENDING ON WHAT SYSTEM
22 YOU USE, THERE IS A DIFFERENCE IN HOW MANY PEOPLE SKIP A RACE
23 OR DON'T OR OVERVOTE THE RACE OR DON'T, AND THAT'S BEEN PROVEN
24 AND THERE ARE DOCUMENTED NUMBERS ON IT.

25

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 **SUP. YAROSLAVSKY:** SO TO THE EXTENT THERE'S CONFUSION THAT
2 LEADS TO SLIPPAGE IN A COUNTY LIKE OURS, WHICH, BY THE COURT'S
3 CONCLUSION BY SELF-EVIDENCE, IS A MORE HEAVILY MINORITY COUNTY
4 THAN SOME **OF** THE OTHER 56% OF THE VOTING POPULATION, WHICH WAS
5 THE BASIS OF THIS -- ONE OF THE BASES OF THIS DECISION, THAT
6 THE SLIPPAGE WILL OCCUR IN COUNTY HERE. I THINK THAT'S WHAT --

7

8 **SPEAKER:** AGAIN, IT'S VERY SPECULATIVE, BUT I THINK WE CAN SAY
9 THAT IT'S A LOGICAL PROGRESSION OF WHAT WE'RE TALKING ABOUT.

10

11 **SUP. YAROSLAVSKY:** LAST TWO QUESTIONS HE HAVE. ONE **IS**, WHAT ARE
12 THE OTHER COUNTIES, THE OTHER FIVE MAJOR COUNTIES THAT ARE AT
13 ISSUE HERE DOING. DO YOU KNOW?

14

15 **SPEAKER:** YES, I **DO**. SACRAMENTO AND LOS ANGELES ARE THE TWO
16 THAT ARE LOOKING AT THE SMALL BALLOT OPTICAL SCAN THAT LOOKS
17 LIKE THIS SYSTEM. THE OTHERS, SAN BERNARDINO, SANTA CLARA, SAN
18 DIEGO, AND OTHERS ARE GOING TO THE TOUCH SCREEN SYSTEM BY
19 MARCH.

20

21 **SUP. YAROSLAVSKY:** OKAY. THE LAST QUESTION I HAVE, IS ANYBODY
22 IN THIS CASE, EITHER SIDE, PLAINTIFFS OR DEFENDANTS, ASKED YOU
23 FOR YOUR INPUT AS THE REGISTRAR RECORDER FOR THE LARGEST
24 COUNTY IN CALIFORNIA?

25

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 **SPEAKER:** THERE'S A FRIEND OF THE COURT GROUP THAT HAS ASKED ME
2 TO DO THAT, BUT IN TERMS --

3

4 **SUP. YAROSLAVSKY:** RECENTLY?

5

6 **SPEAKER:** YES.

7

8 **SUP. YAROSLAVSKY:** SINCE YESTERDAY?

9

10 **SPEAKER:** YES.

11

12 **SUP. YAROSLAVSKY:** PRIOR TO YESTERDAY, HAS YOUR INPUT BEEN
13 SOLICITED?

14

15 **SPEAKER:** A FRIEND OF THE COURT BRIEF THAT SACRAMENTO COUNTY
16 DID, I WAS ASKED TO REVIEW THEIR FRIEND OF THE COURT BRIEF,
17 WHICH I DID, AND ASSISTED IN EDITING IT, BUT A FRIEND OF THE
18 COURT BRIEF IS NOT THE SAME AS BEING A PARTY TO THE LAWSUIT.

19

20 **SUP. YAROSLAVSKY:** WHAT I'M LEADING TO, AND MAYBE MR. PELLMAN
21 CAN JUST MULL THIS OVER, IS IT SEEMS TO ME THIS INFORMATION
22 SOMEHOW NEEDS TO GET BEFORE A COURT, OR THE COURT, OR SHOULD
23 HAVE BEEN BEFORE THE COURT.

24

25 **SPEAKER:** I COULDN'T AGREE MORE.

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1

2 **SUP. YAROSLAVSKY:** AND THEY COULD HAVE MADE THE SAME DECISION
3 AFTER HEARING WHAT MISS McCORMICK HAD TO SAY, AND PROBABLY
4 WOULD HAVE MADE THE SAME DECISION, AS IN THE CASE OF THE NINTH
5 CIRCUIT COURT, AND I'M SURE THE COURT WOULD HAVE MADE THE SAME
6 DECISION, TOO, ABOUT SOMEHOW --

7

8 **SPEAKER:** I THINK WE HAVE TO GO BACK TWO YEARS AGO --

9

10 **SUP. YAROSLAVSKY:** HANG ON A SECOND. THE PEOPLE IN THE TRENCHES
11 THAT ARE DOING THE WORK AND HAVE TO IMPLEMENT THE DECISION OF
12 THE COURT, THEIR INPUT NEEDS NOT TO BE IMPLEMENTED, BUT NEEDS
13 TO BE BEFORE THE COURT SO THEY CAN EVALUATE IT. OTHERWISE,
14 IT'S A PROFESSOR FROM U.C. BERKELEY, GREAT SCHOOL,
15 PONTIFICATING AND OPINING ABOUT WHAT HE THINKS THE IMPACT IS,
16 AND SOME OTHER PROFESSOR OPINING THE OPPOSITE, AND NO
17 REGISTRAR RECORDER HAS BEEN ASKED FOR THEIR OPINION, BUT WHO
18 THE HELL AM I?

19

20 **SUP. KNABE:** PARTICULARLY THE LARGEST VOTING COUNTY IN THE
21 AMERICA.

22

23 **SUP. YAROSLAVSKY:** SO I WOULD ASK YOU TO CONSIDER THAT WHEN WE
24 GO INTO CLOSED SESSION, TO EVALUATE ALL THESE ISSUES, IF THERE

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 IS A WAY TO DEAL WITH THAT ISSUE. IT MAY BE TOO LATE. I'M
2 SORRY I CUT YOU OFF, CONNY. GO AHEAD.

3

4 **SPEAKER:** NO, I WAS CUTTING YOU OFF, SUPERVISOR. I COULDN'T
5 AGREE MORE. THIS CASE, WHEN IT STARTED IN 2001, WE WERE
6 ATTEMPTING TO BE -- WE WERE GOING TO BE -- IF THEY HAD A TRIAL
7 IN JUDGE WILSON'S CASE, I WAS GOING TO BE THE LEAD BUSINESS,
8 AND I DID AN EIGHT-HOUR DECLARATION AND THE JUDGE DETERMINED
9 NOT TO HAVE A TRIAL AND RULED FROM THE BENCH, AND SUBSEQUENT
10 COURT CASES, WE'VE NOT BEEN BROUGHT IN ON, AND WE WEREN'T
11 BROUGHT IN ON THAT ONE, EITHER, BUT THEY WERE GOING TO ALLOW
12 US TO TESTIFY, BUT THERE'S BEEN NO TESTIFYING, IT'S ALL BEEN -
13 -

14

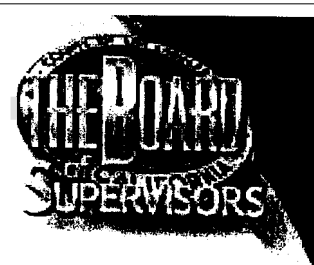
15 **SUP. ANTONOVICH:** WON'T THERE BE AN ADMINISTRATIVE PROBLEM IF
16 THE ELECTION WOULD BE IN MARCH AND THEN THE CLERK OF THE
17 POLLING PLACE WOULD HAVE TO DETERMINE IF THAT PERSON HAD
18 ALREADY VOTED? IF NOT, THEN YOU'D HAVE CHALLENGES CREATING
19 MORE OF AN ADMINISTRATIVE NIGHTMARE?

20

21 **SPEAKER:** AT THIS POINT, SUPERVISOR, I REALLY CAN'T SAY UNTIL
22 WE SEE WHAT THE COURTS ARE GOING TO DO WITH THIS AND THE
23 BALLOTS THAT HAVE ALREADY BEEN CAST AND WHETHER OR NOT THEY'RE
24 JUST GOING TO ALLOW THEM OR -- YOUR GUESS IS AS GOOD AS MINE
25 AT THIS POINT.

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1

2 **SUP. ANTONOVICH:** SO IT REALLY CREATED A STATE OF CHAOS, AND
3 WE'RE ALL IN LIMBO, A CATCH-22 POSITION.

4

5 **SPEAKER:** WELL, WE SEEM TO BE. WE ARE PROCEEDING IN THE NEXT
6 SIX DAYS AS THE COURT **HAS** ORDERED THAT WE PROCEED WITH THE
7 ELECTION, AND WE ARE DOING THAT.

8

9 **SUP. YAROSLAVSKY:** WHAT IS -- IF THERE'S ONE THING YOU WOULD
10 WANT TO SAY TO ALL THESE REPRESENTATIVES OF THE PUBLIC, IF
11 THERE WAS ONE WISH YOU HAD FOR THIS WHOLE THING AT THIS POINT
12 IN TIME, **AS** THE REGISTRAR OF THE LARGEST COUNTY IN AMERICA,
13 WHAT WOULD IT BE?

14

15 **SPEAKER:** I THINK I MIGHT HAVE ALREADY SAID IT.

16

17 **SUP. YAROSLAVSKY:** SAY IT AGAIN.

18

19 **SPEAKER:** I REALLY THINK THAT WE OUGHT TO BE THINKING ABOUT THE
20 VOTER. I'M MOST CONCERNED ABOUT THE VOTER AND THE POTENTIAL
21 DESTABILIZING EFFECT OF ALL OF THIS TURMOIL, NOT JUST FOR THIS
22 ELECTION, BUT INTO THE FUTURE. I'M CONCERNED, WILL PEOPLE IN
23 THE FUTURE NOT WANT TO MAIL IN THEIR ABSENTEE BALLOTS FOR
24 OTHER ELECTIONS, THINKING THEY SHOULD WAIT UNTIL THE LAST
25 MINUTE AND THEN WE DON'T GET THEM IN TIME. I MEAN, THERE'S

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 JUST LOTS OF POTENTIAL REPERCUSSIONS DOWN THE LINE ON THE
2 PEOPLE'S BELIEF IN THE ELECTORAL PROCESS, AND I THINK WE HAVE
3 TO BE VERY CAREFUL ABOUT THAT, BECAUSE I THINK THAT'S BEEN,
4 EVER SINCE NOVEMBER 2000, IT'S BEEN A LOT OF CONCERN ABOUT
5 THAT, AND WE'VE DONE EVERYTHING WE CAN AND YOUR BOARD HAS DONE
6 EVERYTHING WE CAN TO BE SURE THAT WE'RE COUNTING THE BALLOTS
7 APPROPRIATELY, BUT NOW WE HAVE A LOT OF BALLOTS IN THIS
8 ELECTION, PEOPLE ARE WONDERING, CALLING OUR OFFICES WONDERING
9 WHAT THEY SHOULD BE DOING, AND I DON'T THINK THAT GOES AWAY
10 AFTER THIS ISSUE IS RESOLVED, NECESSARILY. I THINK WE HAVE A
11 LARGER CHALLENGE TO ASSURE PEOPLE THAT THE ELECTION PROCESS IS
12 -- THERE'S A SANCTITY TO IT.

13

14 **SUP. YAROSLAVSKY:** YOUR VICE TO THE PUBLIC, THE VOTING PUBLIC
15 **IS** TO CONTINUE TO PROCEED AS IF THE ELECTION IS STILL BEING
16 HELD IN OCTOBER?

17

18 **SPEAKER:** THAT'S THE COURT'S ADVICE, THE SECRETARY OF STATE'S
19 ADVICE AND I BELIEVE ALL OF YOU WOULD **UP** THE SAME. WE'RE IN
20 LIMBO, BUT THEN WHAT WILL HAPPEN IN FIVE DAYS **IS...**

21

22 **SUP. YAROSLAVSKY:** ARE YOU AWARE WHETHER THE SECRETARY OF STATE
23 **HAS** DECIDED TO APPEAL THE CASE?

24

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 **SPEAKER:** I JUST GOT OFF THE PHONE BEFORE I WAS COMING. THAT'S
2 WHY I WAS LATE. HE'S HAVING A PRESS CONFERENCE AT 2:00, AND HE
3 HAS NOT REVEALED THAT AT THIS POINT.

4

5 **SUP. KNABE:** ANYTHING ELSE?

6

7 **SUP. ANTONOVICH:** LET ME ASK COUNTY COUNSEL. THE TWO OPTIONS
8 WOULD BE FOR AN APPEAL DIRECTLY TO THE U.S. SUPREME COURT OR
9 TO ASK FOR THE NINTH DISTRICT COURT TO MEET AND HOLD AND MAKE
10 A DECISION. IF THEY WENT WITH THE NINTH DISTRICT TO MEET AS A
11 WHOLE, WHAT IS A TIME FRAME FOR THAT?

12

13 **COUNSEL PELLMAN:** I BELIEVE I SAW SOME INFORMATION IN THE LAST
14 24 HOURS THAT INDICATED THIS WOULD HAVE TO BE DONE IN A VERY
15 SHORT PERIOD, SUCH AS A WEEK.

16

17 **SUP. ANTONOVICH:** ABOUT A WEEK?

18

19 **COUNSEL PELLMAN:** WHICH WOULD, AT THE MOST EXPEDITIOUS,
20 ADDITIONAL PERIOD OF TIME.

21

22 **SUP. ANTONOVICH:** SO DOES THE TIME FRAME PERMIT THAT TYPE OF
23 HEARING AND DECISION TO BE MADE PRIOR TO OCTOBER 7?

24

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 **COUNSEL PELLMAN:** IT DOES, IF THE HEARING IS GOING TO BE HELD.
2 IF THE NINTH CIRCUIT TAKES TIME TO REVIEW IT, TO DECIDE
3 WHETHER TO HAVE AN IMBANK HEARING, IT'S HARD TO PREDICT
4 WHETHER --

5

6 **SUP. ANTONOVICH:** SO AN IMBANK'S HEARING TAKES A MINIMUM OF
7 SEVEN DAYS, OR A MAXIMUM OF SEVEN DAYS?

8

9 **COUNSEL PELLMAN:** THE INFORMATION I SAW THIS MORNING, I HAVEN'T
10 CONFIRMED IT, IS IT IS GOING TO TAKE SEVEN DAYS FOR THE
11 PROCESS TO TAKE PLACE WITH RESPECT TO AN IMBANK HEARING. THEN
12 THE HEARING WOULD HAVE TO BE HELD, THAT DECISION WOULD ALSO BE
13 SUBJECT TO REVIEW BY THE U.S. SUPREME COURT.

14

15 **SUP. ANTONOVICH:** RIGHT.

16

17 **COUNSEL PELLMAN:** I'VE ASKED JUDY WHITEHURST TO ADVISE US,
18 McCORMACK'S OFFICE TO GET BACK TO US PRIOR TO THE POSTING OF
19 JUSTICE.

20

21 **SUP. YAROSLAVSKY:** I WOULD SO MOVE.

22

23 **SUP. KNABE:** I WOULD SECOND. ANY OBJECTION? SO ORDERED.
24 ANYTHING ELSE? ANY OTHER QUESTIONS? CONNY, THANK YOU, AND I
25 KNOW THAT YOU'LL CONTINUE TO KEEP US ALL INFORMED AS IT

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**The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors**

1 RELATES TO THESE ISSUES, AND THANK YOU FOR BEING HERE THIS
2 MORNING. ZEV, YOU'RE STILL UP ON SPECIALS. YOU DID YOUR
3 ADJOURNMENTS.

4

5 **SUP. YAROSLAVSKY:** LET'S TAKE UP ITEM NUMBER 10, AT LEAST FOR
6 NOW. I THINK YOU AND MS. BURKE -- DO YOU WANT TO WAIT UNTIL
7 MS. BURKE GETS BACK?

8

9 **SUP. KNABE:** SHE HAS REQUESTED --

10

11 **SUP. YAROSLAVSKY:** LET'S HOLD IT UNTIL SHE COMES BACK.

12

13 **SUP. KNABE:** WHAT IF WE DO NUMBER 8 TEMPORARILY.

14

15 **SUP. YAROSLAVSKY:** ALL RIGHT.

16

17 **SUP. KNABE:** SUPERVISOR BURKE HAS REQUESTED THAT WE DO 10 AND
18 21. ITEM NUMBER 8 WAS HELD FOR PETER BAXTER. CALL HIM FORWARD.

19

20 **PETER BAXTER:** MR. CHAIR -- CHAIRMAN, MEMBERS OF YOUR HONORABLE
21 BOARD, MR. JANSSEN, LADIES AND GENTLEMEN, MY NAME IS PETER
22 BAXTER, AND I LIVE IN LOS ANGELES. IT IS MY RESPECTFUL
23 POSITION THAT I -- THAT YOU NAME A COUNTY COURTHOUSE IS, I
24 BELIEVE -- I SINCERELY BELIEVE BEYOND OR WITHOUT THE AUTHORITY
25 OF ANYBODY AT ALL AS BEING A POLITICAL ACTION WHEN THE EFFORT,

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1 **DECLARATION OF SERVICE**

2 STATE OF CALIFORNIA, County of Los Angeles:

3 Derek Stane states: I am and at all times herein mentioned have been a citizen of the United
4 States and a resident of the County of Los Angeles, over the age of eighteen years and not a party
5 to nor interested in the within action; that my business address is 648 Hall of Administration, City
6 of Los Angeles, County of Los Angeles, State of California; that I am readily familiar with the
7 business practice of the Los Angeles County Counsel for collection and processing of
8 correspondence for mailing with the United States Postal Service; and that the correspondence would
9 be deposited within the United States Postal Service that same day in the ordinary course of
10 business.

11 That on the 17th day of September, 2003, I served the attached

12 **MOTION TO FILE AMICUS BRIEF; DECLARATION OF CONNY**
13 **McCORMACK**

14 upon Interested Party(ies) by depositing copies thereof, enclosed in a sealed envelope and placed for
15 collection and mailing on that date following ordinary business practices in the United States Postal
16 Service, addressed as follows:

17 **(See Attached Service List)**

18 ☒ **(BY E-MAIL)** I hereby certify that this document was served by e-mailed transmission on
19 the parties listed herein at their most recent e-mail address on See Attached Service List
20 from Los Angeles, California.

21 ☒ **(BY MAIL)** I am "readily familiar" with this office's practice of collection and processing
22 correspondence by mailing. Under that practice it would be deposited with U.S. postal
23 service on that same day with postage fully prepaid at Los Angeles, California, in the
24 ordinary course of business. I am aware that on motion of the party served, service is
25 presumed invalid if postal cancellation date or postage meter date is more than one day after
26 date of deposit for mailing in affidavit.
27

- 1 ☐ (BY FACSIMILE) I caused such document to be delivered via facsimile transmission to the
2 office of the addressee.
- 3 ☐ (BY PERSONAL DELIVERY - VIA SCM MESSENGER) I caused such envelope to be
4 delivered by hand to the office of the addressee.
- 5 ☐ (BY EXPRESS MAIL) I caused such envelope to be delivered by **Express Mail** to the
6 offices of the addressee.
- 7 ☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the
8 above is true and correct.
- 9 ☒ (FEDERAL) I declare that I am employed in the offices of a member of this court at whose
10 direction the service was made.

11

12 I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th
13 day of September 2003, at Los Angeles, California.

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SERVICE LIST

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